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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,946	09/16/2003	Harold J. Brax	BRAX-101	3860
42419	7590	02/24/2005	EXAMINER	
PAULEY PETERSEN & ERICKSON 2800 WEST HIGGINS ROAD SUITE 365 HOFFMAN ESTATES, IL 60195			HOGAN, JAMES SEAN	
			ART UNIT	PAPER NUMBER
			3752	

DATE MAILED: 02/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/663,946

Applicant(s)

BRAX, HAROLD J.

Examiner

James S Hogan

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,5-16 and 18-21 is/are rejected.
- 7) ☒ Claim(s) 2,4 and 17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 09/16/2003.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to because of the use of wire-frame AutoCAD-style representations of claimed material. The details of nozzle areas on Figures 3 and 4 are obscured. The Office recommends hatched cross-sections or exploded isometric views of assemblies in order to provide the Examiner with a clear and concise view of claimed material. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 103***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1,3,7, and 9 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,546,906 to Vadnais in view of U.S. Patent No. 2,953,248 to Troland.

Regarding claims 1,3,7, and 9 Vadnais ('906) teaches an adjustable dispenser tip having a nozzle<sup>10</sup> forming a passage, a mating end, a dispensing end, and a plurality of independently movable fingers (46) defining an orifice at the dispensing end. A coupler (12) is positioned with respect to the nozzle and movable, capable of urging the fingers to adjust an area of the orifice. As per claim 7, the dispensing end portion is tapered. As per claim 9, the coupler is slidably movable along the nozzle. As per the latter part of claim 1, and claim 3, Vadnais ('906) does not teach an elastomeric web connecting the fingers. Troland ('248) teaches (Fig. 4, an Col. 3, lines 40-47) an elastomeric web, referred but Troland to as an "expand outlet member" (32) positioned on the inside of leaf-spring reinforcements (38) that portray the fingers of the invention. Based on this configuration, it would have been obvious to one skilled in the art at the time the invention was made to have provided the slotted-fingers dispensing nozzle of Vadnais with the sleeve of Troland, acting as a web, to have a nozzle that can conform to different orifice sizes, but have no possibility of material seepage through the slotted fingers.

Claims 1,6-8 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,546,906 to Vadnais in view of U.S. Patent No. 2,953,248 to Troland, and further in view of U.S. Patent No. 690,754 to McKechney.

The rejection for claim 1 above stands as the basis for the following. Regarding claims 5 and 6, neither Troland ('248) nor Vadnais ('906) teaches a threaded base portion or an internally threaded coupler. The device of McKechney ('754) teaches a threaded base and internally threaded coupler for use on a nozzle. As per claim 7, the coupler of Vadnais ('906) comprises a tapered tip. It would have been obvious to one skilled in the art at the time the invention was made to modify the nozzle base and coupler of Vadnais ('906), as modified by Troland ('248), with the threaded fitting shown by McKechney ('754) that actuates in a form so that material seepage is minimized at the attachment end of the nozzle.

Claims 1 and 10 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,546,906 to Vadnais in view of U.S. Patent No. 2,953,248 to Troland, and in further view of U.S. Patent No. 6,299,034 to Trancheff.

The rejection for claim 1 above stands as the basis for the following. Regarding claim 10, neither Troland ('248) nor Vadnais ('906) teaches a collar arrangement at a dispensing end that allows for adjustment of the orifice area. The device of Trancheff ('034) shows a dispenser outlet that features a tapered collar (27) that allows for the adjustment of the orifice (23). By employing the functionality of the coupler of Vadnais ('906), where the collar can be positioned with respect to the nozzle and movable, the nozzle is capable of urging the fingers to adjust an area of the orifice. It would have been obvious to one skill at the time the invention was made to have provided an orifice with an adjustable area to provide the user with the choice of what size bead of flowable medium he or she would desire to apply onto a substrate.

Claims 11-16 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,546,906 to Vadnais in view of U.S. Patent No. 2,953,248 to Troland, and in further view of U.S. Patent No. 6,299,034 to Trancheff and even further in view of U.S. Patent No. 690,754 to McKechney.

The basis of rejection of claims 11-14 is contained within the rejection combinations above. As for claim 15, Vadnais ('906) teaches a nozzle made of plastic (Col. 1, line 16-18). As for claim 16, Troland ('248) teaches an elastomeric web (32) constructed of an elastic "rubber-like" material (Col. 2, lines 45-51). It would have been obvious to one skilled in the art at the time the invention was made to have constructed a nozzle having a plurality of fingers at its tapered end, a collar made adjustable by sliding or by threaded means, and an elastomeric web connecting the nozzle fingers in order to create a nozzle has an adjustable orifice, and means to prevent seepage

Claims 18-20 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,546,906 to Vadnais in view of U.S. Patent No. 2,953,248 to Troland, and in further view of U.S. Patent No. 6,299,034 to Trancheff and even further in view of U.S. Patent No. 690,754 to McKechney.

The basis of rejection of claims 18-19 is contained within the rejection combinations above. As for claim 20, Vadnais ('906) teaches the use of the nozzle as being connected to a caulk tube (Col. 1, line 14). ). It would have been obvious to one skilled in the art at the time the invention was made to have constructed a nozzle having a plurality of fingers at its tapered end, a collar made adjustable by sliding or by threaded means, and an elastomeric web connecting the nozzle fingers in order to

create a nozzle for caulking that has an adjustable orifice, and means to prevent seepage.

Claims 21 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,546,906 to Vadnais in view of U.S. Patent No. 2,953,248 to Troland, and in further view of U.S. Patent No. 6,299,034 to Trancheff and even further in view of U.S. Patent No. 690,754 to McKechney.

The basis of rejection of claim 21 is contained within the rejection combinations above. It would have been obvious to one skilled in the art at the time the invention was made to have constructed a nozzle having a plurality of fingers at its tapered end, a collar made adjustable by sliding or by threaded means, and an elastomeric web connecting the nozzle fingers in order to create a nozzle for caulking that has an adjustable orifice, and means to prevent seepage.

### ***Allowable Subject Matter***

3. Claims 2, 4 and 17 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is as follows:

U.S. Patent No. 5,743,668 to Zimmerman, disclosing an adjustable caulking tip

U.S. Patent No. 2,901,152 to Wahnsiedler, disclosing a closure for a dispenser


U.S. Patent No. 4,204,328 to Kutner, disclosing a variable diameter-aspirating tip

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James S Hogan whose telephone number is (571) 272-4902. The examiner can normally be reached on Mon-Fri, 7:00a-4:00p EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Scherbel can be reached on (571) 272-4919. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JSH  
02/14/2005



David Scherbel  
Primary Patent Examiner  
Group 3700